

THE DEFICIT

Mr. GREGG. Mr. President, I rise today to speak briefly about two issues, and I know Senator BURR wants to continue his discussion of the FDA tobacco bill.

There are two issues which are very significant to the American taxpayer, especially to those of us who are concerned about how much debt this administration is running up on our children, and they need to be highlighted.

The first is good news. It looks as though a number of banks are going to repay a fair percentage of the TARP money that has been put out by the administration—potentially \$65 billion. When TARP was originally structured, the understanding was that we would buy assets in banks or from banks, and at some point we would get that money back as taxpayers. In fact, we would get it back with interest. This is what is happening now. The money is coming back, as these banks have restored their fiscal strength, and it is actually coming back with interest. About \$4.5 billion on top of the money we have put out, is my understanding, as to what will be paid back on the interest side relative to the preferred stock. So that is all good news.

First, the financial system was stabilized during a cataclysmic period in September and October, and the investments which remained in preferred stock, with taxpayers' money, is now being repaid.

The issue becomes, however, what are we going to do with this money that is coming back into the Treasury? Well, it ought to go to reduce the debt. This administration in recent days has been giving at least lipservice to the fact that the budget they put in place, with a \$1 trillion deficit over the next 10 years on average every year—\$1 trillion every year for the next 10 years, of doubling the debt in 5 years, of tripling it in 10 years—they have been giving lipservice that they understand that is not a sustainable situation. The Secretary of the Treasury, the Chief Economic Counsel, and even the President have said the budget they proposed is not sustainable because the debt that is being run up on the American public cannot be afforded by our children. It goes from what has historically been about 35 percent of the gross national product up to over 82 percent of the gross national product. The interest on the debt alone at the end of this budget which the President proposed will be \$800 billion a year—\$800 billion a year—just in interest payments that the American people will have to pay. That will actually exceed any other major item of discretionary spending in the budget. We will be spending less than that on the national defense. We will be spending more on interest, in other words, than we spend on national defense because of all of the debt that is being run up.

Well, if this administration is serious—and I am not sure they are; I think they are basically holding press

conferences because they did something else today which implies that—if they are actually serious about trying to address this debt issue, then they should immediately take the \$65 billion they are going to get back from the banks to which money was lent and that was put out by taxpayers and knew we would get back, they should immediately take that money and apply it to reducing the Federal debt. It should not be spent on other programs. It shouldn't even be recycled through the financial system.

It should be repaid to the taxpayer by reducing the debt of the United States. That is the only reasonable way to approach it. It would be a tremendously strong signal not only to the American taxpayers that this administration is serious about doing something on the debt side, but it would be a strong signal to the world markets that we were willing, as a nation, to take this money and pay down the debt. Ironically, it would also follow the proposal of the original TARP bill, which said that after the financial system was stabilized, any moneys coming in should be used to reduce the deficit and debt of the United States. It certainly should not be used to fund new ventures into the private sector, whether it is buying automobile companies or insurance companies or anything else such as that. It should be simply used to reduce the debt.

I hope the administration will do that because that would follow the law, and it would be a good sign to the world markets, which are becoming suspicious of our debt, as we have seen in a number of instances—for example, the cost of 10-year bills, 30-year bills, and also the fact that the Chinese leadership, in the financial area, expressed concern about the purchase of the long-term debt of the United States. It would also be a positive sign to Americans that we are going to do something about this debt we are passing on to our kids.

It is unfair to run up a trillion dollars a year of deficit, double the debt in 5 years, and triple it in 10 years, and send all those bills to our kids. These young students here today as pages, in 10 years, will find the household they are living in has a new \$30,000 mortgage on it, and it is called the bill for the Federal debt. They will have a new \$6,500 interest payment that they will have to make, which is called the interest they have to support on the Federal debt. It is not appropriate to do that to these younger Americans and to the next generation. Let's take the \$65 billion and use it as it was originally agreed it would be used, which is when it came back into the Treasury, with interest, which is pretty good, it would be used to pay down the debt.

Why am I suspicious that this administration is giving us lip service on the issue of fiscal discipline? There is a second thing that happened today. The President today came out and held a big press conference about how he was

for pay-go. I have not heard a Democratic candidate for Congress, and now the President of the United States, not claim they are going to exercise fiscal discipline here by being for pay-go, because the term has such motherhood implications, that you are going to pay for what you do here. It is total hypocrisy, inconsistent with everything that has happened from the other side of the aisle in the era of spending and budgeting. Not only do they not support pay-go, they punch holes in what we have for our pay-go law.

In the last 2½ years, this Congress—and now in the last 3, 4, or 5 months—and this Presidency have passed—democratically controlled—10 bills that have waived or gamed the pay-go rules that are already on the books to the tune of \$882 billion. If you throw in the things they wanted to do that they weren't able to pass, because we on our side stood up and said, no, that is too much—and we did it on the rest, but we got rolled—it is over a trillion dollars of instances where this Congress and this President have asked for initiatives that would waive, punch holes in, go around the pay-go rules we already have. That is why I called it “Swiss-cheese-go,” not pay-go. Now we have this disingenuous statement from the administration that suddenly they are for pay-go. It already exists; we just don't enforce it around here. Not only do they claim they are for pay-go, even in their statement they claim they are for it, and they game their own pay-go proposal by saying it is not going to apply to the doc fix, the AMT fix, or even to the health care exercise. There should be a pay-go point of order against the first 5 years, and they waived that on health care reform.

It is a good precedent. It will be picked up by the mainstream media as an effort by this administration to try to discipline spending because, of course, they are not going to acknowledge that it has been gamed to such an extraordinary extent that over \$882 billion has been spent that should have been subject to pay-go rules. So it is a touch inconsistent and disingenuous for them to suddenly now find the faith of pay-go when, in fact, they have been ignoring pay-go rules and gaming those rules so they could spend money.

Again, what happens there? They run up the debt on the American people in the United States, creating a system where our government will not be sustainable or affordable for our children.

If this administration wants to do something meaningful in the area of reducing the debt and controlling spending, take the \$65 billion they are about to get in repayment of TARP money from the various banks and apply it to reduce the debt. That would be real action versus the precedent.

I yield the floor and appreciate the courtesy of the Senator from North Carolina.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

Mr. BURR. Mr. President, I ask unanimous consent to speak for up to an hour as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. BURR. Mr. President, I came to the floor last week for north of 5 hours and spoke about the bill that will be disposed of as this week goes on and, specifically, on an amendment that, though nongermane postcloture, the majority leader has agreed to hold a vote on. To me, this will be one of the most important votes Members in this body cast this year.

Again, I believe this is one of the most important votes Members in the Senate will cast this year. Let me try to say why. This is a debate about the regulation of tobacco and, to start with, Members need to be reminded that today this is not an industry without regulation. This is the current charted Federal regulation of the tobacco industry before we do anything. I point out that included in that regulatory structure is the Department of Transportation, Department of Treasury, Department of Commerce, Department of Justice, Office of the President, Department of Health and Human Services, Department of Education, Department of Labor, General Services Administration, Department of Veterans Affairs, Federal Trade Commission, Department of Agriculture, Environmental Protection Agency, U.S. Postal Service, and Department of Defense.

One, no Member can come to the floor and claim this is not a regulated product. It is the most regulated product sold in America today. I think there is consensus, and I agree, that we can do better than this maze of regulatory oversight in jurisdiction that is currently structured within the Federal Government, because it has been cobbled together as the Federal Government has grown, as new areas saw they had a piece of this pie, and they wanted some jurisdiction. We are throwing this regulatory structure away, and the proposal in the base bill, H.R. 1256, is to centralize this regulation of tobacco within the FDA.

For those who aren't familiar with the FDA, let me say the Food and Drug Administration regulates 25 cents of every dollar of the U.S. economy—25 percent of all of the products sold in the United States are regulated by this one agency.

FDA's core mission is this:

Responsible for protecting the public health by assuring the safety, efficacy, and security of human and veterinary drugs, biologic products, medical devices, our Nation's food supply, cosmetics, and products that emit radiation.

Nowhere in there does it say tobacco, nor has it ever. A layperson would look at this and say if there is an agency

whose responsibility it is to approve safety and effectiveness, for God's sake, you could not give them tobacco because they could never prove it was safe. It kills, and there is no dispute about that. We are trying to take a round peg and put it in a square hole. We are trying to find an agency that we think has punitive steps that they can take, but we are actually going much farther than that. You see, not only is there experience or expertise at the FDA to regulate tobacco, they are not. We are going to ask the FDA to surge, with their resources, their personnel, expertise, away from things such as lifesaving drugs, effective medical devices, and a responsibility to food safety at a time Americans have been killed because this agency couldn't effectively do their job. We are going to ask them to surge to handle a new product they have never, ever regulated.

As a matter of fact, the last FDA Commissioner, von Eschenbach, said this:

The provisions in this bill—

I might say this was slightly over 2 years ago. As I have pointed out and talked about last week for over 5 hours on H.R. 1256, the authors of the bill didn't even change the dates in the bill from the bill written 2 years ago. As a matter of fact, the section by section is the same bill written 10 years ago. So I think it is appropriate, if they are going to use an effective date of February 2007, that I use the comments of the FDA Commissioner at the time, who said:

The provisions in this bill would require substantial resources, and FDA may not be in a position to meet all of the activities within the proposed user levels. . . . as a consequence of this, FDA may have to divert funds from other programs, such as addressing the safety of drugs and food, to begin implementing this program.

This is not RICHARD BURR, this is the former Commissioner of the FDA saying we may have to divert funds from other programs, such as safety of drugs and food. If the American people are given this choice, they would say uphold the gold standard of the FDA. Let me go to bed at night as I take that medication my doctor prescribed and the pharmacist filled, and let me feel confident that the most qualified reviewer looked at that application, at the clinical trial date, and made a determination that this drug was safe and effective for me. Make sure when I go to the grocery store and buy food in a global marketplace, where the melons might have come from Chile or the spinach from Mexico, that they have the best and brightest addressing food safety.

They have already flunked that several times in the last 3 years, and we have all dealt with the consequences of it. But think about what we are getting ready to do. We are getting ready to make it worse. We are getting ready to take an agency that has a seal of approval, a gold standard, and we are get-

ting ready to say we want you to maintain that gold standard on drugs, and food, and biologics, and medical devices, but we understand you cannot hold tobacco to the same threshold. So we want you to ignore the fact that tobacco kills, and we want you to regulate it as we prescribe it in legislation. How does H.R. 1256 prescribe this in regulation?

We will turn to this, which is my continuum of risk chart. It basically starts to my right, and your left, Mr. President. It has unfiltered cigarettes. You remember those. They had a risk of 100 percent. If you smoked them, there was a 100-percent likelihood that you were going to have a health problem from smoking.

Then the industry came up with filtered cigarettes, and they reduced the risk by 10 percent, from 100 percent to 90 percent. But when one is looking for a way to play this, a 90-percent risk is not a good one.

What H.R. 1256 says is: OK, we realize FDA is not the right agency, but we are going to place it there anyway, and we are going to tell the FDA: We want you to leave this alone; we don't want you to touch this 100-percent risk or 90-percent risk. We want to grandfather all the products that were made before February 2007. And, oh, by the way, that would include U.S. smokeless tobacco.

The most risky we are grandfathering in and we say to the FDA: You can't change it. You basically can't regulate it. You can't regulate the 100 percent, you can't regulate the 90 percent, and you can't regulate this small but growing U.S. smokeless market that has a risk of 10 percent.

One might look at the chart and say there are other things on there. There are electronic cigarettes, tobacco-heating cigarettes, Swedish smokeless snus. There are dissolvable and other products that have less risk. All those products in February 2007 were not in the marketplace. They are banned. They are eliminated.

What are we asking the FDA to do? We are asking them to grandfather three categories of products and let all adults who choose to use a tobacco product choose from the most risky categories.

What are we saying to the 40 million Americans who smoke today? If you are in this category of using cigarettes, we are not going to give you any options as to what you turn to as you realize that is not the best thing for your health. We are going to lock you in and hope it kills you fast so our health care cost goes down.

Any claim—any claim—that H.R. 1256 reduces the cost of health care is only because we have grandfathered in smokers who will die sooner, not that we have allowed them a pathway through this bill to ever experience not only products that are currently on the marketplace that reduce the risk from 100 percent to as little as 1 percent, but we have completely eliminated any additional innovation in product in the